

1 Amend 2 Cal. Code Regs. Section 18530.4 to read:

2 § 18530.4. Legal Defense Funds – **State Candidates and Officers.**

3 (a) Application and Definitions.

4 (1) This regulation applies to the bank account permitted by Section 85304(a).

5 (2) For purposes of this regulation, the following definitions apply:

6 (A) “Legal defense funds” means money in the legal defense account.

7 (B) “Legal defense account” means the bank account established at a financial
8 institution located in the State of California pursuant to Section 85304(a).

9 (C) “Legal defense committee” means a committee formed pursuant to
10 subdivision (b) of this regulation.

11 (D) “Candidate” means a candidate for elective state office who raises legal
12 defense funds.

13 (E) “Officer” means an elected state officer who raises legal defense funds.

14 ~~(a) (b) Establishing the Legal Defense Account and Controlled~~
15 ~~Committee. Notwithstanding Government Code section 85201, candidates who raise~~
16 ~~legal defense funds pursuant to Government Code section 85304 must~~ A candidate or
17 officer shall deposit those legal defense funds in and expend them from a single bank
18 account at a financial institution located in the State of California which is separate from
19 any other bank account held by the official, including any a campaign bank account
20 **legal defense account established under Section 85304.5.** The candidate or officer
21 ~~must~~ shall establish a controlled committee for the legal defense account by filing a
22 statement of organization pursuant to Government Code section Section 84101. The
23 statement of organization shall contain a description of the specific legal dispute or

1 disputes for which the account is established, and shall be amended pursuant to Section
2 84103, as a legal dispute is either resolved or initiated. The words "Legal Defense
3 Fund" and the candidate's or officer's last name shall be included as part of in the
4 committee name.

5 (c) Required Recordkeeping and Audits. The candidate or officer, and the
6 treasurer of the legal defense committee, is subject to recordkeeping requirements
7 specified in Section 84104 and shall keep separate detailed accounts, records, bills, and
8 receipts, for each legal dispute including documentation to support the basis and timing,
9 as set forth in subdivision (g)(3), for raising legal defense funds. The legal defense
10 committee shall be subject to audits under Chapter 10 (commencing with Section
11 90000) of Title 9 of the Government Code. An audit under Section 90001 of a candidate
12 or officer, or any controlled committee of the candidate or officer, shall include that
13 candidate's or officer's legal defense committee maintained during the audit period as
14 described in Section 90002(c).

15 ~~(b)~~ (d) Reporting Requirements. The legal defense committee shall file quarterly
16 campaign statements as follows: and reports pursuant to Chapters 4 (commencing with
17 Section 84100) and 5 (commencing with Section 85100) of Title 9 of the Government
18 Code at the same times and in the same places as it otherwise would be required to do
19 for any other controlled committee formed by the candidate or officer for election to
20 state office.

21 ~~(1) No later than April 30 for the period of January 1 through March 31.~~

22 ~~(2) No later than July 31 for the period of April 1 through June 30.~~

23 ~~(3) No later than October 31 for the period of July 1 through September 30.~~

1 ~~(4) No later than January 31 for the period of October 1 through December 31.~~

2 ~~(e) (e) Contributions and Expenditures not Subject to Certain Provisions.~~

3 ~~Contributions~~ A contribution to and an expenditure from a legal defense ~~fund~~ account
4 ~~are is~~ not subject to the provisions of Government Code sections Sections 85200, 85201,
5 ~~and 85402~~ or Article 4 (commencing with Section 85400) of Chapter 5 of Title 9 of the
6 Government Code.

7 ~~(d) (f) Status as a Local Candidate or Local Elected Officer. An elected state~~
8 ~~officer or candidate for elective state office~~ A candidate or officer may establish a legal
9 defense ~~fund~~ account under ~~Government Code section Section~~ 85304 regardless of the
10 individual's status as a local candidate or ~~officeholder~~ local elected officer.

11 ~~(e) (g) Limitations. Funds raised pursuant to Government Code section 85304 are~~
12 ~~limited to that amount reasonably necessary to defray the attorney fees and other legal~~
13 ~~costs related to the proceeding for which the fund was created.~~ For the purposes of
14 Section 85304(a), the following limitations apply:

15 (1) Legal defense funds may only be raised in an amount reasonably calculated to
16 pay, and may only be expended for, attorney's fees and other related legal costs.

17 (A) "Attorney's fees and other related legal costs" includes only the following:

18 (i) Attorney's fees and other direct legal costs related to the defense of the
19 candidate or officer.

20 (ii) Administrative costs directly related to compliance with the requirements of
21 subdivisions (b) and (d) and the recordkeeping requirements of subdivision (c) of this
22 regulation.

1 (B) “Attorney’s fees and other related legal costs” does not include expenses for
2 fundraising, or a payment or reimbursement for a fine, penalty, judgment or settlement,
3 or a payment to return or disgorge contributions made to any other committee controlled
4 by the candidate or officer.

5 (2) A candidate or officer may only raise funds under this regulation for defense
6 against a civil or criminal proceeding, or for defense against a government agency’s
7 administrative enforcement proceeding arising directly out of the conduct of an election
8 campaign, the electoral process, or the performance of the officer’s governmental
9 activities and duties. An administrative enforcement proceeding includes a discretionary
10 audit initiated under Section 90003, but not an audit initiated under Section 90001 until
11 the candidate or officer reasonably concludes that a government agency has commenced
12 an investigation based upon the audit. A candidate or officer may raise funds under this
13 regulation and Section 85304 to defend against an election contest conducted pursuant to
14 Division 16 (commencing with Section 16000) of the Elections Code, but may not raise
15 or spend legal defense funds for attorney’s fees and other legal costs incurred in an
16 election recount conducted pursuant to Chapter 9 (commencing with Section 15600) of
17 Division 15 of the Elections Code.

18 (3) Legal defense funds may not be raised in connection with a proceeding until
19 the following has occurred:

20 (A) In a proceeding brought by a government agency, when the candidate or
21 officer reasonably concludes the agency has commenced an investigation or the agency
22 formally commences the proceeding, whichever is earlier.

1 (B) In a civil proceeding brought by a private person, after the person files the
2 civil action.

3 ~~(F)~~ (h) Remaining Funds. Funds remaining in the legal defense account following
4 payment of all attorney's fees and other related legal costs for which the account and
5 committee are established shall be returned or disposed of as follows:

6 (1) If the total amount of remaining legal defense funds is more than \$5,000, the
7 entire sum shall be returned to legal defense account donors on a pro rata basis.

8 (2) Remaining legal defense funds, as defined by subdivision (c) of Government
9 Code section 85304, that are not required to be returned under subdivision (h)(1) may
10 shall be disposed of for any of the purpose purposes set forth in subdivisions (b)(1)
11 through (b)(5) of Government Code section Section 89519;. Remaining legal defense
12 funds may not be transferred, except as permitted under subdivisions (b)(1) through
13 (b)(5) of Section 89519, and that such disposition is subject to the provisions of
14 Government Code sections Sections 85301-85306 85301 through 85306 and 2-Cal. Code
15 Regs. section Regulation 18536.

16 (i) Termination and Reopening of Committees. A legal defense account and
17 legal defense committee shall be terminated, and all attorney's fees and other related
18 costs as well as any remaining funds as described in subdivision (h) returned or disposed
19 of, within 90 days of the date the last legal dispute for which the account and committee
20 are established has been resolved. The Executive Director may for good cause, and
21 consistent with the purposes of Section 85304 and this regulation, extend the termination
22 date or permit the candidate or officer to reopen the account. The application to extend

- 1 the termination date or to reopen the account shall be in writing and shall include copies
- 2 of all supporting documents including copies of billing statements.
- 3 Note: Authority cited: Section 83112, Government Code. Reference: Sections 85301-
- 4 85306 and 89519, Government Code.